base. It contends that regulation not only should take into account the degree of market power of the regulated company, but also its size. TCG Ex. 1.02 at 2-6.

TCG similarly disagrees with LDDS's proposal that carriers should be required to provide a wholesale access service. It argues that LDDS fails to account for the different degrees (or lack of any degree) of market power of incumbent LECs and new LECs. TCG Ex. 1.02 at 6-16.

MFS

MFS maintains that the conditions of entry into the local market will be inherently unequal for the foreseeable future, regardless of how effective the Commission's interconnection and inter-carrier compensation policies prove to be. Inequality exists not only because new entrants like MFS are start-up companies, with all the burdens of developing an initial business, but also due to historical, financial and other conditions favoring the incumbent LECs. This inequality must be reflected in any regulations adopted by the Commission. Some regulations, such as consumer protection regulations, may impose similar obligations on both entrants and incumbent carriers. However, the rules of economic regulation that are designed to control the market power of dominant LECs need not and should not be extended to firms without market power. The Commission should allow market forces to test the behavior of new entrants, rather than subjecting new entrants to the regulatory controls designed to curb the monopoly power of incumbent LECs. MFS Ex. 1.1 at 2-15.

Analysis and Conclusions

A competitively neutral regulatory environment need not be an environment in which all carriers are treated identically. Many regulatory requirements applicable to incumbent LECs exist as a protection against abuse of monopoly power. As competition increases in a marketplace, many of these requirements need to be reassessed. Some should be reduced or eliminated, but others need to be strengthened.

Asymmetrical regulation based on the existence of competition is contemplated explicitly by the Act. The Act requires that telecommunications services be classified either as "competitive" or "noncompetitive." *See* Section 5/13-209-10. The Act identifies the standard for a service to be classified as "competitive:"

> A service shall be classified as competitive only if, and only to the extent that, for some identifiable class or group of customers in an exchange, group of exchanges, or some other clearly defined geographical

> area, such service, or its functional equivalent, or a substitute service, is reasonably available from more than one provider . . .
>
> 220 ILCS 5/13-502(b).

The statute sets forth several safeguards that apply if a carrier offers both noncompetitive and competitive services (as do the incumbent LECs): including imputation (Section 13-505.1), nondiscriminatory provision of noncompetitive services (Sections 13-505.2 and 13-505.3), nondiscriminatory interconnections between LECs (Section 13-702), mandatory resale of most noncompetitive services (Section 13-505.3), unbundling (Section 13-505.6), and a prohibition against cross-subsidization (Section 13-507).

It has been argued that these restrictions could not or should not be applied to the new LECs because they do not possess market power. We disagree. Preventing abuses of market power is, of course, not the only basis for regulatory policy. Numerous other public interest objectives are served through governmental regulation. To facilitate new entry, we agree with those parties that urge us to minimize regulatory requirements for new LECs. However, we believe that it is essential to review all of the Commission's regulations to determine which of them are appropriately applied to the new LECs.

We agree with Staff's initial suggestions that Administrative Code Part 305, which establishes the standards for the provisioning of communications lines by carriers providing noncompetitive services; Administrative Code Part 730, which delineates the minimum standards of service for LECs providing noncompetitive services; and Administrative Code Part 785, which sets forth the standards for fire protection and emergency services for communications switching facilities should be met by all LECs.

We direct that Staff prepare the necessary modifications to those rules and that a docket be initiated to review comprehensively standards and rules to be applicable to the new LECs.

IX. OTHER ISSUES

Parties identified several other issues they believed must be addressed as we move to a more competitive local exchange market. We address those issues in this section of the order because they were not as extensively treated by the majority of parties as the previous issues were.

Wholesale Rate Proposal

Through the testimony of Joseph Gillan, a consulting economist, LDDS contends that the a structural flaw exists in the switched access market. LDDS argues that most elements of switched access cannot be provided independently from local service; that an IXC may take its switched access business only to the local service provider selected by the end user; and that, as a consequence, an IXC lacks the ability to pressure the local exchange service provider competitively relative to its switched access prices. LDDS proposes to correct this flaw by asking the Commission to order all providers of local exchange service to make available a generic wholesale bundled local exchange service offering that parallels their existing retail service offerings. LDDS suggests that IXCs then could resell such services with their own brand identity and position themselves to exert competitive market pressure on switched access rates by influencing the end user's choice of local exchange service provider. The wholesale structure would reflect retail prices reduced by the local service provider's retail costs for customer support, marketing, billing, and so forth.

Analysis and Conclusion

On cross-examination, Mr. Gillan clarified his proposal by explaining that Staff's line-side unbundling proposal, in combination with its pricing recommendation regarding Illinois Bell's unbundled network components, was very similar to his original proposal. He said that the difference was one of emphasis. Mr. Gillan asserted that in addition to unbundling the network into different components, the Commission also should require that the network itself be unbundled from customer support and other retail activities. He said there was agreement with Staff that whenever something is unbundled, there should be a price discount to reflect the avoided costs that are saved. The essential aspect of his proposal was that an entity could offer all the network functionality of the local telephone company and resell it under its own brand name with its own customer support and added ancillary functions. Tr. at 4163-65. In light of the Commission's decisions regarding the pricing of unbundled services and the initiation of a docket to consider longer term resale issues, the Commission concludes that it is unnecessary to consider Mr. Gillan's proposal further at this time.

Capping Rates for Switched Access

Mr. Gillan suggested that the Commission establish minimum obligations for new entrants, either in these proceedings or in a separate proceeding. He was concerned, however, that IXCs have no choice regarding which carrier to use for switched access services

for origination and termination of calls. Mr. Gillan recommended that the Commission consider alternative regulatory approaches to minimize the burden on new entrants, and suggested capping rates for switched access services at the incumbent LEC's rates or equivalent services as a potential approach to minimize the need for complicated regulation while offering protection to IXCs and others (LDDS Ex. 2.0 at 15-16).

Illinois Bell, MCI, TCG, and MFS all demonstrated strenuous opposition to Mr. Gillan's views; they assert that competitive pressures would be exerted on switched access rates such that regulatory oversight would be unnecessary. (See, for example, IBT Ex. 1.20 at 29-31; MCI Ex. 1.1 at 26-29; MFS Ex. 1.1 at 21-25; and TCG Ex. 1.02 at 8-18.)

Staff asserted that Mr. Gillan's concerns regarding the competitiveness of switched access services are similar to concerns that Staff has expressed in these proceedings, as well as in recent Section 13-405 proceedings, and bear on Section 13-502(b) requirements regarding the classification of services. Ms. TerKeurst commented that, while Section 13-503(b) may require that switched access services be classified as noncompetitive, this does not mean that regulation of those services must be oppressive. Mr. Gillan's view that switched access rates could be capped at incumbent LEC access rates is consistent with Mr. Starkey's position that compensation for the termination of local traffic on new entrants' networks should be capped at the incumbent LEC's termination rates. Staff suggested that approaches such as these could be crafted consistent with Section 13-506.1 regarding alternative forms of regulation for noncompetitive services in a way that would minimize regulatory burdens on new entrants while protecting the interests of those incumbent LECs and IXCs carrying, traffic that either originates or terminates on the new entrants systems.

Conclusion

The Commission concludes that no action is necessary at this time. We will reserve further consideration of the various proposals in the access charge investigation and other dockets.

Treatment of Illinois Bell Services under Price Caps

Illinois Bell took the position that intraMSA presubscription should be considered a new service for purposes of operation of its price cap mechanism, because it adds to the options available to customers. (IBT Ex. 1.10 at 22-23). GTE asserted similarly that unbundled services (GTE Ex. 1.00 at 34) are new services. CUB contended that unbundled services should be treated as an adjustment in the price cap formula to ensure that rates for basic

exchange ratepayers are reduced. (CUB Ex. 1.0 at 25). In rebuttal testimony, Staff agreed with Illinois Bell and GTE. (Staff Ex. 1.01 at 49-50).

MCI and AT&T stressed that carriers under a price cap regulatory framework should not be allowed to increase rates to recover unanticipated cost increases or lost revenues. (MCI Ex. 4.0 at 17; AT&T Ex. 5.1 at 23). Staff agreed in general with these parties that LEC revenue losses due to competitive inroads should not qualify for exogenous factor treatment since they would be contrary to the criteria that exogenous factors be quantifiable, verifiable, and outside the LEC's control. (Staff Ex. 1.01 at 50).

Analysis and Conclusion

The Commission concurs with Staff that the various services introduced pursuant to these proceedings should be treated as "new services" under the alternative form of regulation we adopted for Illinois Bell in Docket 92-0448. However, any changes in revenues which are attributable to the impact of enhanced competition do not qualify for exogenous treatment under the alternative regulation plan.

Exchange Support Functions

(1) Directory Listings.

As part of its Customers First plan tariffs, Illinois Bell proposed that unbundled ports would include a white pages and a Yellow Pages listing. Additional listings would be provided for unbundled services under the same terms as they are provided to bundled service customers today (*i.e.*, tariffed availability for additional white pages; purchasing advertising for Yellow Pages). Unbundled port customers also would receive directories. Unbundled loop purchasers would not receive these services under Illinois Bell's proposal, because they would not be assigned a telephone number with the unbundled loop facility. Illinois Bell agreed to offer "arrangements" to new entrants to permit them to list their customers in its directories. IBT Ex. 3.0 at 28-29.

(2) 911 Service

Illinois Bell agreed that it would offer new entrants interconnection to its 911 networks for "reasonable compensation." New entrants could provide their own 911 services if they choose. IBT Ex. 3.0 at 29-30.

(3) Operational Support Services.

Illinois Bell states that it will give new entrants access to the Line Information, 800, and Directory Assistance databases, like any other carrier. Under Illinois Bell's plan, purchasers of its unbundled port services also will have access to operator services functions (although purchasers of unbundled loops would not). It also stated that it would establish procedures by which new entrants would be permitted to access operational support systems, as requested by TCG. Mr. Kocher states that Illinois Bell is adapting many of the interfaces with IXCs (such as EXACT, CARE, and CABS) for use by new entrants. IBT Ex. 3.0 at 30; IBT Ex. 3.40 at 18.

Centel disagrees that LECs should be required to provide new LECs access to LEC administrative systems (*e.g.*, order processing, billing and circuit provisioning, maintenance/repair and customer service systems), unless and until those interfaces are adapted to work within the local exchange model. Centel Ex. 3.0 at 6-8; Centel Ex. 5.0 at 10-11.

MFS argues that the Customers First tariff fails to address these exchange support functions adequately because it does not include any pricing information. Because the exchange support functions are necessary to facilitate the flow of certain types of calls or information between LECs and provide customers with essential services, MFS contends that incumbent LECs should be required to make these services available at LRSIC. MFS Ex. 2.0 at 42-46.

TCG argues that unbundled ports should not include access to 911 and directory services, but believes that Illinois Bell should be required to provide them to new LECs separate from port services. TCG Ex. 3.00 at 4.

Analysis and Conclusion

Several of the issues identified above relate to the various operation support systems that the incumbent LECs have built up over time to support their local exchange services. The new LECs will need access to these operation support services to provide competing local exchange services. Examples of network and administrative functions that Staff identified under its market principle 4 were directory assistance, LIDB, and white pages directory listings.

We believe that Illinois Bell has made a good faith effort to identify the necessary services, and we direct that it make the services available, at reasonable rates, to all properly certificated local exchange carriers, including its competitors. No further Commission action is required at this time.

Fresh Look Proposal

As part of MFS' conditions required to permit local exchange competition, MFS suggests that customers with long term contractual obligations to purchase Illinois Bell services should be given a specified period to take a "fresh look" at their agreement. MFS Ex. 2.0 at 9.

Illinois Bell opposes MFS' "fresh look" proposal. It argues that the Commission should not invalidate its existing contracts for two reasons. First, it claims that many services provided under contract are competitive, and these customers could have chosen other alternatives when they signed these contracts. Second, Illinois Bell points out that for many optional payment plan services, customers received a lower rate because they committed to purchase service for a fixed future period. It contends that it would be unfair and unreasonable to invalidate these agreements. IBT Ex. 1.20 at 34.

Analysis and Conclusion

For the reasons stated by Illinois Bell, we reject MFS' proposal. In the absence of evidence that the contracts were entered into for anti-competitive purposes, we will not disturb them.

Number Administration

MFS argues that all carriers, including new LECs, should be permitted access to NXX code assignments. The central office code administrator for Illinois (currently Illinois Bell) should be required to make code assignments on a nondiscriminatory basis. MFS Ex. 2.0 at 36.

Illinois Bell proposed that it relinquish its role as Local Number Administrator in Illinois (it currently is the administrator for six area codes), but it offered to do so only "upon implementation" of its Customers First plan. IBT Ex. 3.0 at 25. If the plan is not approved, Illinois Bell will not relinquish its administration role willingly:

> Q. . . . am I to assume that if your plan is not approved, that in no case do you intend to relinquish that role (as number plan administrator)?
>
> A. I think that's probably accurate.

Tr. at 568.

MFS disagrees with Illinois Bell's plan to relinquish its administrator duties only if the Customers First plan is granted; it argues that there is "no rational basis" for tying Illinois Bell's relinquishment of administrator authority with the grant of the plan. MFS contends that Illinois Bell should be required to relinquish its role without condition, and, as long as it remains administrator, it should be required to assign NXX codes to new LECs on the same terms and at the same rates as to others. MFS Ex. 2.0 at 37.

Staff noted that the FCC recently initiated a docket (CC Docket No. 93-237, Phases I and II, Notice of Proposed Rulemaking, April 4, 1994) to address the number administration issue. Staff recommends that the Commission make no ruling on the issue at this time and reserve the right to address the issue in the future if Illinois Bell's number administration practices are proven to be a competitive barrier.

Analysis and Conclusion

We conclude that Illinois Bell's intention to relinquish its role as number plan administrator is in the public interest. Consistent with our ruling on the interMSA linkage condition, we will direct Illinois Bell to do so without condition. Specifically, upon consultation with interested parties, the Commission Staff is directed to file, within 180 days, a recommendation for designation of an independent third-party capable of administering NXX codes and other numbering resources in a fair and nondiscriminatory manner. The Commission will, of course, consider any modifications which become necessary as a result of any future FCC decisions on the issue.

Myers

Mr. Jim Myers, a private citizen, argues that the Commission should impose a one or two percent surcharge on AT&T revenues and use those revenues to establish a retirement home and educational fund. Myers Ex. 1; Myers Ex. 1.1; Myers Ex. 1.2.

Analysis and Conclusion

Mr. Myers' proposal to tax AT&T's revenues to fund education and retirement home facilities is outside the scope of this proceeding, and beyond the jurisdiction of the Commission.

IntraMSA Presubscription

In Docket 94-0048, Staff presented its proposal for a statewide rule requiring intraMSA presubscription. Staff maintains that Illinois Bell should be treated no differently than any other

LEC regarding the recovery of intraMSA presubscription costs and should, therefore, comply with Section XXX.160 of Staff's proposed presubscription rule. To that end, Staff suggests that Illinois Bell should modify its proposed tariff at ILL. C.C. No. 5 Part 2 - Section 19, pages 33.15 and 204 so that its charge is applied only to Band C monthly usage.

Staff explains that as a result of the Commission's Order in Illinois Bell's alternative regulation case, Docket 92-0448, Illinois Bell recently has eliminated its Band D. In addition, Staff's proposal regarding the calls subject to presubscription precludes Band B calling from being subject to presubscription. This would be consistent with the requirement in Section XXX.160(b) that the presubscription recovery mechanism be applied only to intraMSA presubscribed MOUs. Similarly, the second charge, at ILL. C.C. No. 15, page 241, should be modified so that it is applied only to presubscribed intraMSA originating Feature Group D access minutes.

Illinois Bell established that intraMSA presubscription can be provided by early 1995 in its exchanges at minimal costs using the modified 1-PIC method. Staff agreed that there is no need for Illinois Bell to wait for a statewide rule; to do so would delay the significant benefits of intraMSA presubscription unnecessarily. Staff maintains that the Commission should require that it file amended presubscription tariffs consistent with the substance of the proposed rule. Staff maintains that Illinois Bell's intraMSA presubscription can be changed later, if necessary, to conform to any changes in the presubscription rule that may be made after the entry of the Commission's Order regarding the Customers First tariff filing. Staff Initial Brief at 57.

Staff recommended that Illinois Bell be required to amend the portion of its tariff filing regarding presubscription to use the 2-PIC method rather than the modified 1-PIC method, for reasons discussed in the rulemaking proceeding. Since the 2-PIC method may take longer to implement than the modified 1-PIC method, Ms. TerKeurst testified that, consistent with the treatment in the rule, Illinois Bell should be required to file tariffs within 120 days of the Commission's Order in these proceedings, to implement presubscription within one year of the Order. Tr. 3893-94.

According to Illinois Bell's tariff filing, presubscription would not be available in Illinois Bell's exchanges in MSAs 4, 5, 10, and 12, where Illinois Bell is not the PTC. Staff agreed with this restriction, as an interim measure prior to the presubscription rule becoming effective statewide. (ICC Staff Ex. 1.01 at 10). Illinois Bell also proposed that intraMSA presubscription not be available in four exchanges which straddle

state lines and whose central offices are not in Illinois. Staff agreed with this restriction as well. Staff Ex. 1.00 at 45.

Illinois Bell responds that on cross-examination Staff maintained that the Company should implement intraMSA presubscription under the terms of the pending rulemaking, i.e., one year after the effective date of the rule. Tr. 3894. Illinois Bell argues that, in its Initial Brief, Staff appears to have changed its position and suggests that the Company should be required to implement Modified 1-PIC now, and then 2-PIC later. Illinois Bell maintains that this is improper because it unnecessarily increases the expenses customers must bear and duplicates the work effort of implementation.

Analysis and Conclusion

There is considerable confusion between Illinois Bell and Staff on this issue. Some clarification is appropriate. Illinois Bell has said that it is on schedule to be able to implement modified 1-PIC in 1995. The Company suggests that it do so within 90 days after receiving an order granting it inter-LATA relief. The 90-day period is consistent with its proposal that all of the features of the Customer's First proposal, including presubscription, would be implemented 90 days after it receives interLATA relief. The Commission has rejected the interLATA linkage condition. This implies that presubscription using modified 1-PIC could be implemented immediately.

However, in Docket 94-0048 the Commission has adopted 2-PIC as the statewide method for presubscription. Under the proposed rule companies would have six months after a bona fide request or one year after the rule becomes effective to implement. Staff believes that one year after a company becomes aware that they have to implement presubscription is sufficient time to implement 2-PIC. A company has to file tariffs to do that. The Commission Order should, in effect, give Illinois Bell that notice, and so it asks that the Commission require the Company to file tariffs that are consistent with the requirements of the proposed rule in Docket 94-0048 (e.g., 2-PIC) within 120 days of the Order, in order to implement presubscription within one year of this Order. The timeline for implementation would therefore be shorter than waiting for the state-wide rule to become effective.

The Commission concludes that the Staff proposals are reasonable and should be adopted. Illinois Bell should comply with the adopted implementation time frames, unless it seeks and obtains a modification of this order if it believes that these requirements cannot be met.

Primary Toll Carrier

Several parties in this proceeding addressed the issue of whether Primary Toll Carrier ("PTC") arrangements should be eliminated.

Illinois Bell recommends that PTC arrangements be eliminated immediately in MSA-1. Issues related to their termination in the remainder of the state would be investigated in Docket 94-0047. Upon completion of that investigation, these arrangements would be terminated in the remainder of the state. Upon termination of PTC arrangements, Illinois Bell further recommends that carriers should work together to develop replacement arrangements using an originating responsibility party ("ORP") type plan. In making its recommendations, the Company disagrees with any suggestion that PTC arrangements be dismantled on a piecemeal basis, i.e., switched services being removed from PTC immediately and private line/911-type services being removed at some indeterminate time in the future, given the interrelationship of various services subject to PTC.

Staff recommends that PTC arrangements be terminated upon implementation of intraMSA presubscription. Staff also takes the position that the Commission need not resolve immediately various issues which would arise when PTC arrangements are eliminated. Instead, issues like carrier of last resort and the deaveraging of toll rates can be addressed on a case-by-case basis. Staff also offers the position that if the Commission were to determine that termination of PTC is premature for private line services, then the Commission should address PTC issues related to private line in a follow-up proceeding.

ICTC recommends that the Commission engage in further study of issues related to the termination of PTC arrangements and that the Commission terminate PTC arrangements upon implementation of presubscription in any particular MSA. AT&T agrees with Staff that the arrangements provided by PTC be replaced with tariffed access services (which currently are the basis for PTC compensation). The IITA also takes the position that the Commission needs to reexamine PTC arrangements.

Analysis and Conclusion

The Commission concludes that issues associated with termination of PTC arrangements should be investigated on an expedited basis. Virtually all parties agree that the PTC concept is inconsistent with presubscription. However, we reject Illinois Bell's suggestion that the PTC arrangements be terminated immediately in MSA 1 and replaced with an ORP approach. Illinois Bell's proposal came very late, in the briefing stage of the

proceeding, and the record is therefore inadequate to evaluate the proposal fully. We will direct Staff to initiate an investigation into issues associated with termination of the PTC arrangements. These issues include, but are not limited to, private line, carrier of last resort, and toll deaveraging.

X. UNIVERSAL SERVICE & FOLLOW-UP PROCEEDINGS

In this proceeding we have resolved several of the most important and pressing issues required to begin the process of moving toward an effectively competitive local exchange market. The key polices we have established in this Order, market-driven unbundling of the local exchange network and reasonable interconnection and reciprocal compensation arrangements between competing local carriers, are essential to allow exchange competition to begin. Implementation of many of the other policies we have established here, such as number portability, and termination of PTC arrangements, will require further Commission action. Several parties have raised additional issues which may require additional examination and study by the Commission. These issues are addressed below.

Positions Of The Parties

CUB

CUB takes the position that the issue of universal service should be addressed in this docket. It asserts that a regulatory body should not allow the deterioration of universal service or permit it to be used to interfere with the development of competition.

CUB witness Cooper identified the components of basic service as dial tone, unlimited usage in a local calling area, touch-tone capability, single line/single party service and public functions. The public functions associated with universal service would include 911 emergency service, 411 directory service, telecommunications relay service for the hearing impaired (TDD), an annoyance call bureau and the white pages directory listing book. Dr. Cooper also testified that the obligation to serve should be maintained and strengthened as the telecommunications network becomes more competitive. He noted that telephone penetration rates have declined in Illinois.

IITA

The IITA takes the position that the Commission must determine whether universal service that includes reasonable toll and local rates can be maintained in an environment involving further

unbundling and end office integration. It recommends that the Commission address this issue in constructing any test and trials.

AT&T

AT&T witness Mercer presented his study "The Enduring Local Bottleneck" and argued that even with implementation of the appropriate conditions proposed by AT&T, there is still a substantial possibility that the LEC bottleneck is structural in nature and that full local exchange competition cannot develop. To guard against that possibility, AT&T recommended that the marketplace be monitored and, in the event competition does not develop, the Commission can be alerted to the desirability of a different regulatory approach.

AT&T recommends that the Commission initiate further proceedings to address the implementation of certain of its proposed nine conditions and their effects. Specifically, AT&T proposes workshops for industry participants and Commission Staff to address the following matters:

(1) procedures for new entrants to obtain nondiscriminatory access to Illinois Bell right of way, conduit and other pathways;

(2) details of a technical trial of a database solution for the provision of "true" number portability;

(3) non-discriminatory, cost-based terminating access service arrangements for incumbent LECs and new entrants;

(4) further access modifications to be addressed in Docket 94-0047; and

(5) the type of data to be collected and the appropriate metrics for a market test to measure whether, where and to what degree local exchange competition develops in the Illinois Bell service areas.

Further, AT&T recommended that the Commission initiate a separate proceeding to define universal service and to develop and implement competitively neutral support mechanisms.

TCG

TCG takes the position that universal service is consistent with a competitive market for residential/business services. TCG agrees that the issue should not delay the Commission's implementation of measures to facilitate competition and recommends

that the Commission initiate a separate proceeding to investigate this issue.

Staff

Staff contends that the Commission should address a number of issues in follow-up proceedings, contending that the statutory deadline for consideration of the Customers First tariff precludes adequate consideration of many issues. It believes that such issues as access to rights of way (through discussions and potentially workshops), differing regulatory treatment of carriers based on market power (through follow-up rulemaking proceedings), number portability (through a task force), and universal service funding (in a follow-up proceeding) should remain actions on the Commission's agenda after the entry of this Order.

Staff agrees that the Commission should establish a competitively neutral universal service funding and distribution mechanism. Nonetheless, it argues that the issues associated with this issue are too complex to be addressed fully in this proceeding. It recommends that universal service be addressed "in a comprehensive and coordinated basis in the near future."

Illinois Bell

Illinois Bell argues that the Commission hould act only on the proposed intraMSA and line-side and reciprocal interconnection rules and the Customers First tariffs. It argues that the other issues are too complex to be considered adequately in this proceeding, and it recommends that t e Commission address other issues - including universal service, reciprocal compensation, loop subelement unbundling, co-carrier requirements (other than those required by the proposed rules) - in a future proceeding.

Illinois Bell takes the position that while universal service is an important policy, issues related to it are too complex to be fully developed in this proceeding and should be addressed in another proceeding. The Company agrees with Staff that while universal service is an important policy, the issues are too complex for this proceeding and should be addressed in a "comprehensive and coordinated proceeding in the near future." Illinois Bell points our that it will continue to maintain its universal service obligation and to be the carrier of last resort during the transition to alternative arrangements, so that there is no immediate problem.

Illinois Bell suggests that the Commission establish an interim compensation arrangement while deferring broader resolution of the issue of mutual or reciprocal compensation across the entire

range of providers and relationships, to another docket. Tr. 490-492.

MCI

MCI recommends that the Commission initiate two separate follow-up proceedings. One proceeding would identify and change or recommend change of protectionist rules, policies and statutes, investigate and resolve rights of way issues and create an appropriate regulatory framework for the transition to competition. The second would address universal service issues. MCI appends a lengthy proposal to Mr. Goldfarb's testimony outlining MCI's position on universal service funding. It takes the position, however, that the universal service mechanism that it is proposing does not need to be in place before network unbundling takes place.

GTE

GTE argues that it is not necessary to address all the issues associated with universal service in this proceeding. It provides what it calls "high level policy guidance" on universal service issues. These policies are: eliminating subsidies and guaranteed contribution for existing LECs, and creating a competitively neutral funding and distribution mechanism.

Centel

Centel finds that universal service issues are too complex to be resolved within this docket. It agrees with Staff that these issues should be addressed on a comprehensive and coordinated basis in a future proceeding. Centel argues that the Commission should not at this point require that an industry board be formed to resolve right of way disputes. Instead, it argues that this issue should be addressed in the workshops recommended by Staff. Centel also argues that co-carrier and number portability issues be addressed in future proceedings, as recommended by Staff. It recommends that these issues be resolved in separate proceedings, or in a single forum.

Analysis and Conclusions

The Commission is aware of the importance of universal service in the transition to a competitive marketplace. Several parties addressed universal service concerns in this docket. We take this opportunity to confirm the well-established public policy that "universally available and widely affordable telecommunications services are essential to the health, welfare and prosperity of all Illinois citizens," 220 ILC 5/13-100 and 13-102 (a), and that "telecommunications services should be available to all Illinois citizens at just, reasonable and affordable rates and such services

should be provided as widely and economically as possible in sufficient variety, quality, quantity and reliability to satisfy the public interest." Id. at 13-103 (a). In light of these policies, we emphasize that the incumbent local exchange carriers' obligation to serve will be fully enforced during the transition to a competitive market.

Many universal service issues are extremely complex and will require more attention than was possible in this docket. Therefore, the Commission will establish a comprehensive docket concerning universal service issues. In that docket, Staff and interested parties will have the opportunity to present for the Commission's consideration, proposals regarding the definition of universal service, the development of competitively neutral support mechanisms, and the appropriate scope of telecommunications carriers' obligations to serve in a competitive environment.

The Commission believes that appropriate metrics must be established now so as to be able to evaluate competitive developments in the local exchange. Accordingly, the Commission accepts AT&T's recommendation that an industry workshop be established to determine the appropriate type of data that should be collected for analysis by the Commission and to develop appropriate measurements of exchange competition.

As noted above, the Commission also agrees that a docket should be initiated to consider regulatory requirements for the new LECs.

With respect to the issue of poles and conduit, the Commission expects all carriers to use good faith efforts to cooperate with one another and to provide other carriers, including competitors, with reasonable access to their poles and conduit. If there prove to be problems, any carrier can bring them to the Commission's attention through the complaint process. With respect to right of way, the Commission notes that the authority of local municipalities and third party property rights are implicated. It would be appropriate for industry workshops to be held to address these issues, and to consider the appropriate role for the Commission in such matters. The industry also should consider whether a legislative solution is advisable.

XI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, is of the opinion and finds that:

(1) Illinois Bell Telephone Company is an Illinois corporation engaged in the business of providing

telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Illinois Public Utilities Act;

(2) the Commission has jurisdiction over Illinois Bell Telephone Company and the subject matter of this proceeding;

(3) the recital of facts and law and conclusions reached in the prefatory portion of this Order are supported by evidence of record, and are hereby adopted as findings of fact and conclusions of law for the purposes of this Order;

(4) on February 15, 1994, Illinois Bell filed proposed tariffs to provide services that would implement its "Customers First" plan in Illinois, which were docketed as 94-0096; on March 7, 1994, Illinois Bell filed an addendum to its tariffs, which was docketed as 94-0117;

(5) on April 11, 1994, AT&T Communications Corporation of Illinois, Inc. petitioned for an investigation and order to establish the conditions necessary to permit effective exchange competition to the extent feasible in the areas served by Illinois Bell; the petition was docketed as 94-0146;

(6) pursuant to the First Interim Order of the Commission, on July 1, 1994, Illinois Bell withdrew its proposed tariffs in Docket 94-0096, and resubmitted them, which were docketed as 94-0301; the Commission subsequently consolidated all four of these dockets;

(7) the establishment of policies which accommodate and effectuate the provision of services by telecommunications carriers, certificated under Section 13-405 of the Act in exchanges already served by a Section 13-405 certificated carrier, is in the public interest and within the jurisdiction of the Commission;

(8) Illinois Bell's tariff provisions, which condition implementation of interconnection, unbundling, interMSA presubscription, and other terms and provisions of its filed tariffs, to removal or modification of restrictions against Illinois Bell's provision of interMSA services arising from the 1982 federal consent decree requiring divestiture of Illinois Bell from AT&T, are unjust, unreasonable and contrary to the public interest because they constitute an improper restraint on the Commission's

exercise of its statutory authority and impede the Commission's progress toward the long-term goal of full and fair local exchange competition;

(9) Illinois Bell shall reprice its loops and ports, and other unbundled elements, using the pricing rules recommended by Staff;

(10) Illinois Bell failed to meet its burden of proof to establish that its proposed rates for reciprocal compensation are just and reasonable;

(11) Illinois Bell should be directed to make changes in its proposed tariffs in accordance with the conclusions in the prefatory portions of this Order;

(12) the Chief Clerk of the Commission should be directed to maintain all such information identified as proprietary and data so designated in this proceeding in a manner which will not permit disclosure, dissemination, revelation or reproduction thereof without further Order of the Commission; provided that the proprietary information and data shall be certified on any appeal in a manner which informs the Clerk of any Court of the action of this Commission with regard thereto in order to enable any such Court to enter such order or orders as such Court shall deem necessary and proper; and

(13) any objections, motions or petitions filed in this proceeding which remain undisposed of should be disposed of in a manner consistent with the ultimate conclusions herein contained.

IT IS THEREFORE ORDERED that Illinois Bell Telephone's tariff filings in Dockets 94-0096, 94-0117 and 94-0301 are hereby cancelled and annulled.

IT IS FURTHER ORDERED that AT&T's petition in Docket 94-0146 is granted to the extent described above, and in all other respects is denied.

IT IS FURTHER ORDERED that within 120 days of this Order, Illinois Bell Telephone shall file new tariffs for the implementation of presubscription within 1 year of this Order, with such tariffs to be consistent with the proposed rule in Docket 94-0048.

IT IS FURTHER ORDERED that Illinois Bell Telephone shall file new tariffs for the provision of unbundled services, the terms and conditions of interconnection and reciprocal compensation, and the

other matters addressed in this Order, in compliance with the terms hereof, within 45 days.

IT IS FURTHER ORDERED that the Commission authorizes that 5/13-405 telecommunications carriers, who have been issued a Certificate of Exchange Authority by the Commission, may resell residential loops, ports and NAL purchased at residential rates with the restriction that residential loops, ports and NAL purchased at residential rates can only be resold to residential customers.

IT IS FURTHER ORDERED that the Commission Staff shall establish and coordinate an Industry Working Group to develop number portability solutions.

IT IS FURTHER ORDERED that, upon consultation with interested parties, the Commission Staff shall file, within 180 days, a recommendation for designation of an independent third party capable of administering NXX codes and other numbering resources in a fair and nondiscriminatory manner.

IT IS FURTHER ORDERED that proceedings regarding termination of PTC arrangements, resale restrictions and the role of resellers in exchange competition, regulatory rules applicable to new LECs, and preservation of universal service shall be instituted after submission by the Staff of proposed rules, regulations and policies for these areas. Such proposed rules, regulations and policies shall be filed within one year of the effective date of this Order. However, with respect to the termination of PTC arrangements, such proposed rules, regulations and policies shall be filed within six months of the effective date of this order.

IT IS FURTHER ORDERED that all motions, petitions and tariffs not previously disposed of are hereby disposed of consistent with the findings of this Order.

IT IS FURTHER ORDERED that the Chief Clerk of the Commission should maintain information identified as proprietary and data so designated in this proceeding in a manner which will not permit disclosure, dissemination, revelation or reproduction thereof without further Order of the Commission; provided that the proprietary information and data shall be certified on any appeal in a manner which informs the Clerk of any Court of the action of this Commission with regard thereto in order to enable any such Court to enter such order or orders as such Court shall deem necessary and proper.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code

200.800, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 7th day of April, 1995.

(SIGNED) DAN MILLER

Chairman

(S E A L)

Chairman Miller, Commissioners McDermott and Kolhauser concur; written opinions will be filed.

ATTACHMENT D

COST OF SERVICE

August 17, 1994 Order in Docket 92-0211
May 17, 1995 Order in Docket 92-0211
July 19, 1995 Order in Docket 92-0211
83 Il. Adm. Code Part 791: Cost of Service

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion	:	
Implementation of Section 13-507 of the Public Utilities Act, as amended by P.A. 87-856.	:	92-0211

ORDER

August 17, 1994

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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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ORDER

By the Commission:

I. INTRODUCTION

On May 14, 1992, the Legislature amended Section 13-507 of the Public Utilities Act. In response to those amendments, the resolution commencing this rulemaking was entered June 10, 1992. The parties to this docket are: Staff of the Illinois Commerce Commission ("Staff"); Central Telephone Company of Illinois ("Centel"); MCI Telecommunications Corporation ("MCI"); Illinois Consolidated Telephone Company of Illinois ("ICTC"); Alltel Illinois, Inc. ("Alltel"); GTE North Incorporated ("GTE"); LDDS Communications and the Independent Coin Payphone Association ("ICPA"); the Illinois Cable Telephone Association ("ICTA"); Illinois Bell Telephone Company ("IBT"); American Telephone and Telegraph ("AT&T"); the Citizens Utility Board ("CUB"); and the People of the Cook County ("Cook County").

Hearings were held in this docket on August 20, 1992, October 21, 1992, November 4, 1992, December 15, 1992. On January 6, 1993, the Appellate Court entered its opinion affirming the order on remand under the caption of People ex rel. O'Malley v. Illinois Commerce Commission (2d Dist. 1993) 180 Ill. Dec. 206, 606 N.E. 2d 1283 ("IBT II"). Additional hearings were held in this docket on February 4, 1993, May 3, 1993, May 4, 1993, May 5, 1993, July 26, 1993, and July 27, 1993. Following the July 27 hearing, the record was marked "Heard and Taken."

Various witnesses testified on behalf of the parties. Peggy Lynn Rettle of the Telecommunications Department of the Public Utilities Division of the Illinois Commerce Commission testified on behalf of Staff and sponsored Staff Exhibit 1.01, Staff's proposed rule. Elizabeth Ann Wisniewski also testified for Staff. Other witnesses and their sponsoring parties included: Harry M. Shooshan, III, (MCI); Charles B. Goldfarb (MCI); Kirsten Smoot (ICTC); Jay Lyle Patrick (ICTC); Mark E. Meitzen (Alltel, GTE, IBT and ICTC); Jane Meagher (Centel); Richard D. Hillstrom (IBT); Patricia Robertell-Hudson (Alltel); Gary F. Wilkinson (GTE); Allen Matsummoto (Centel) and Gregory Busch (Centel).

Initial briefs were filed on behalf of Staff, ICPA, MCI, ICTA, IBT, AT&T, Cook County, GTE, Centel, Alltel and ICTC. Reply briefs were submitted by the same parties as well as by CUB.

While this docket was formally opened by a resolution of the Illinois Commerce Commission ("Commission") entered on June 10, 1992, its genesis is somewhat more complicated, requiring some further explication. The first significant date for purposes of this discussion is December 18, 1988. On that date, Illinois Bell Telephone ("IBT") filed new tariffs with the Commission seeking new and restructured telephone rates. Hearings were held under Docket No. 89-0331, and, on November 9, 1989, an order was entered approving new rates for IBT. The order was appealed to the Appellate Court for the Second District of Illinois. In Bell Telephone Company v. Commerce Commission (2d Dist. 1990) 203 Ill. App. 3d 424, 149 Ill. Dec. 148, 561 N.E. 2d 426 ("Bell I"), the court reversed the Commission's order in toto and remanded the cause for further proceedings. In remanding the cause, the court, in dicta, noted that the Commission had failed to follow the statutory strictures of Section 13-507 of the Public Utilities Act (Ill. Rev. Stat. 1989, Ch. 111 2/3, par. 13-507) by failing to require an apportionment of common overhead costs between competitive and non-competitive services.

Following remand, the Commission reopened the record for the sole purpose of taking additional evidence regarding the apportionment or allocation of common overheads. Additional hearings were held after which the Commission issued an order ("Order on Remand") on November 4, 1991. The order on remand was again appealed by intervenors.

II. BACKGROUND INFORMATION

As the foregoing discussion indicates, this docket was opened for the purpose of establishing rules to implement the statutory directives of Section 13-507 of the Public Utilities Act, as amended. Because this docket was opened in response to legislative amendment, the amended statute as well as the statutory language unchanged, added or deleted is the obvious stepping off point for any meaningful analysis. The proposed rule is attached as Appendix A.

III. EVIDENTIARY RULINGS

Before turning to a discussion of the substantive issues involved in this case, two objections raised by various parties to testimony given during the hearings must be addressed. Centel offered into evidence the testimony of Harry M. Shooshan, III, of Strategic Policy Research, Inc., and Gregory Busch, a private